

# Local Government Employee-Management Relations Board E-Newsletter

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## Members of the Board

Philip E. Larson, Chairman

Brent C. Eckersley, Esq., Vice-Chairman

Sandra Masters, Board Member

## Staff

Bruce K. Snyder, Commissioner

Marisu Romualdez Abellar,  
Board Secretary

## Recent Board Decisions

Please note that summaries of recent decisions are provided for informational purposes only and are not intended to substitute for the opinions of the Board. These summaries should not be cited to or regarded as legal authority. The EMRB will provide copies of the decisions upon request. They also may be found on our website.

**Item 818; Case 2015-013; Eric Brown v. Las Vegas Metropolitan Police Department.** Eric Brown was an officer assigned to LVMPD's Traffic Bureau. Officer Brown had a long standing issue with LVMPD's stance not to ticket members of the Nation of Islam who stood in street intersections distributing literature. In March 2015 the Traffic Bureau launched a pedestrian safety campaign in which officers were ordered to increase pedestrian citations. Officer Brown sent an e-mail to his sergeant advising that he would not be writing any pedestrian citations as long as LVMPD's stance did not change. Officer Brown also e-mailed other officers, encouraging them to do the same.

Shortly thereafter Brown was administratively transferred out of Traffic. In January 2016 Brown received a written reprimand and then the administrative transfer was changed to a disciplinary transfer. Brown grieved his discipline and was found not to have violated the Obedience and Insubordination regulation but that he had violated the Harmony and Cooperation regulation. Brown's reprimand was converted to a contact report, he was restored back to Traffic, but that he was not awarded back pay.

Officer Brown thereupon filed a complaint with the EMRB, claiming that LVMPD committed a unilateral change to the agreed-upon terms of the collective bargaining agreement by initially being administratively transferred out of Traffic. One of the elements of a unilateral change allegation is that the change is not merely an isolated breach but rather amounts to a change in policy. The Board opined that this incident was unique to Brown, which was prompted by his refusal to issue any pedestrian citations whatsoever.

Brown also alleged that he was a victim of discrimination due to personal or political reasons for having made known his stance on LVMPD not issuing citations to Nation of Islam members. Here, the Board held that Brown did not meet his initial burden to support an inference that his protected conduct was a motivating factor in his transfer, and even if he had, LVMPD produced sufficient evidence to satisfy the Board that it would have taken the same action even in the absence of protected conduct. Based on all the above the Board ruled in favor of LVMPD on all counts.

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## On the Horizon

The next meeting of the Board, which will be held in Las Vegas, will be Tuesday, January 10, 2017 through Thursday, January 12, 2017. The agenda for the meeting will be issued on January 3, 2017. At that time the Board is scheduled to hear one major case. The case is 2016-004, Richard Marshall v. Nye County. Marshall, who worked for the Nye County Sheriff's Office, contends he was terminated by the new Sheriff after campaigning against her in the election which she won.

The Board is also scheduled to deliberate on case 2015-027, Bonner & Washington v. City of North Las Vegas. Bonner & Washington, who worked in the Human Resources Department, claim that their jobs were outsourced in retaliation for having filed a prior EMRB complaint, which ultimately settled and for which they received back pay. They also claim they were discriminated against for various reasons. The City denies all the allegations.

## Annual Reports Now Past Due

If your local government or employee organization has not filed its annual report with the EMRB, then it is past due. State law requires that every local government and employee organization is to file an annual report by the end of November. The forms were mailed to each entity on October 21<sup>st</sup>. If you have filed your report, then we thank you.

There are, however, a number of local governments and employee organizations that have yet to file. Individual reminder notices will be mailed this week to the official contact person at each entity that has yet to file. If you receive an e-mail and are not the designated person to file the report, then please forward the e-mail to the person in your organization responsible for doing so.

A list of local governments and employee organizations not filing by December 31<sup>st</sup> will be provided to the Board at its January meeting, at which time staff may recommend to the Board further steps to ensure compliance with this mandate.

## EMRB Annual Report Coming Soon

The EMRB's 2016 annual report will be presented to the Board at its meeting on January 10<sup>th</sup> to 12<sup>th</sup>. Once approved by the Board we will then immediately issue it to our user community. So look for the report in your e-mail account around the middle of January. The report will not only review the major rulings and events of 2016 but will also look forward to the coming year.

## Legislative Update

The 2017 session of the State Legislature begins on February 6<sup>th</sup>. Prior to then lawmakers and other officials are allowed to file bill draft requests (known as BDR's) with the Legislative Counsel Bureau. So far three BDR's have been filed that affect NRS 288, which is the EMRB's enabling statute. The first BDR has already been assigned a bill number, SB 48. Submitted by the State Controller, the bill would allow a local government to notify an employee organization that it does not wish to collectively bargain a successor collective bargaining agreement. Upon expiration of the CBA, the local government can then unilaterally set the wages, benefits and other working conditions.

Two BDR's have been submitted for which no bill number has yet been assigned. BDR 556, submitted by the Legislative Commission, would increase the size of the Board from three members to five members. This was one of the recommendations of the Sunset Subcommittee of the Legislative Commission.

BDR 621, submitted by Assemblyman Yeager, would revise "provisions governing relations between local governments and public employees." Nothing else is yet known about this BDR.

## In the Queue...

Once initial pleadings, including pre-hearing statements, have been filed with the EMRB and after any motions to dismiss or defer have been decided, then a case typically goes into a queue, waiting for the Board to decide whether to grant a hearing in the case or dismiss the complaint. The Board has now scheduled cases through March 2017:

### January 2017

2016-004, Richard Marshall v. Nye County

### February 2017

2015-028, Bonvicin & Moore v. City of North Las Vegas

### March 2017

2016-007, Thomas O'Neil v. City of Las Vegas

In addition to the above cases which have hearing dates, there is one additional case yet waiting for a hearing date to be assigned: 2016-016, Brown et al. & Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department.

## Did you know

**our office will be closed on Monday, December 26<sup>th</sup> for the Christmas Holiday; Monday, January 2<sup>nd</sup> for New Year's; and also on Monday, January 16<sup>th</sup> for Martin Luther King, Jr. Day? Even though we will be off, documents electronically filed on those days will be date-stamped as of the date received in our inbox.**



## We Will Soon Be Moving

It appears that the EMRB may be moving in just over a month or so. The state has entered into an agreement to lease three floors of an office building on Sahara Avenue, about a mile west of Interstate 15 in Las Vegas. The new office space will accommodate 10 of the 13 divisions as well as the Director's office within the Department of Business and Industry. We are excited about this opportunity as the department will have three hearing rooms of various sizes that can be reserved.

The EMRB's own office, which will be on the second floor, will include a better reception area, a dedicated space for our office equipment and a separate conference room. The space will thus allow us to have proper facilities for conducting settlement conferences and other small, in-person meetings. As we get closer to the date we will let you know the exact date. Once moved in we plan on holding our annual open forum, at which we get good ideas for improving the agency, at our new facility. Continue to stay tuned!

### "About the EMRB"

The Employee-Management Relations Board (EMRB), a Division of the Department of Business and Industry, fosters the collective bargaining process between local governments and their employee organizations (i.e., unions), provides support in the process, and resolves disputes between local governments, employee organizations, and individual employees as they arise.